

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1, 3, and 4-10 are currently pending. Claims 2 and 11-12 were canceled previously. Claims 5-10 are withdrawn. No claims are amended or newly added. No new matter is added.

In the outstanding Office Action, Claims 1, 3, and 4 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claims 1, 3, and 4 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Claims 1 and 3 were rejected under 35 U.S.C. § 103(a) as obvious over Johnson (U.S. Patent No. 1,891,989, herein “Johnson”) in view of Andler (U.S. Patent No. 2,368,911, herein “Andler”) and Pindek (U.S. Patent No. 2,186,809, herein “Pindek”). Claim 4 was rejected under 35 U.S.C. § 103(a) as obvious over Johnson in view of Andler and Pindek and further in view of Brozek (U.S. Patent No. 2,267,370, herein “Brozek”).

Regarding the rejection of Claims 1, 3, and 4 under 35 U.S.C. § 112, first paragraph, that rejection is respectfully traversed by the present response. The outstanding Office Action states that Applicant has not identified how to distinguish split leather from any other leather.¹ However, the specification is not required to teach how to “distinguish split leather from any other leather,” just how to make “split leather” without undue experimentation. Applicant respectfully submits that the specification provides such a disclosure by stating that:

The method advantageously also comprises a step of treating the strips of the type involving splitting of the leather in order to even up the thickness of said strips.²

¹ Outstanding Office Action at 2.

² Specification at 5, lines 23-25.

Accordingly, the leather is treated such that the strips are split in a manner to even thicknesses of the strips. See MPEP §2164.01, for example.

Furthermore, Applicant respectfully submits that the quotation above makes clear that split leather, as performed by the method described in the specification, has an even thickness while unsplit leather has an uneven thickness. Accordingly, the specification specifically points out one difference between split leather and unsplit leather.

Moreover, Applicant respectfully submits that a person of ordinary skill in the art would understand the difference between the terms "split leather" and "unsplit leather" as the term "split leather" is a term of art. For example, one on-line glossary of terms of art in relation to animal hides states:

SPLIT LEATHER (SPLIT)-Skin sliced in layers to give uniform thickness to the piece (grain side). Split leather (inside) is trimmed and finished as suede. Cheap leathers are sometimes pigmented splits with embossed imitation grain.³

Additionally, the above-noted quotations make clear to the reader that leather in general presents an irregular thickness, while split leather, as described in the above-noted quotations, is different from leather in general because it has a less uneven thickness.

Accordingly, Applicant respectfully submits that the rejection of Claims 1, 3, and 4 as failing to comply with the enablement requirement is overcome.

Regarding the rejection of Claims 1, 3, and 4 under 35 U.S.C. § 112, second paragraph as indefinite, Applicant respectfully submits that as the term "split leather" is a term of art, a person of ordinary skill in the art would understand what is meant by "split leather" as recited in Claim 1. Accordingly, Applicant respectfully submits that this rejection is overcome for at least the reasons discussed above.

Regarding the rejection of Claims 1 and 3 as obvious over Johnson in view of Andler and Pindek, that rejection is respectfully traversed by the present response.

³ <http://www.hidemarket.com/public/Hides/leaglos1.htm> (last visited March 21, 2006).

Claim 1 recites:

A zip fastener device configured to join two strips comprising:

two rows of teeth configured to mutually engage with each other under the action of a slider and applied respectively to one of the edges of each of the two strips, the material of the two strips being split leather,

wherein the two strips are formed by a piece folded in two, an area forming a fold is filled longitudinally with a rod of chosen thickness, and the teeth are applied at least partially around the fold area thus filled, and

wherein the zip fastener forms a wall of an article on which the zip fastener is disposed.

Accordingly, the material of the two strips is split leather.

The outstanding Office Action relies on Johnson for the feature of using split leather.

The outstanding Office Action states:

[A]s to the use of split leather, Johnson teaches that it is conventional to [use] strips of leather as the leather would have some variation in thickness, it would have been obvious to utilize “split leather” since the article of Johnson is inherently capable of being used on varying thicknesses of leather and provides a slide fastener mounted on leather.⁴

However, Johnson merely mentions that leather may be used to make the tapes or stringers (1) and (2).⁵ Johnson makes no mention of using “split leather” or that leather has an uneven thickness or that split leather should be used to remedy the uneven thickness of leather.

Accordingly, Applicant respectfully submits that Johnson fails to disclose split leather as recited in Claim 1 and the outstanding Office Action fails to establish that “leather” inherently is “split leather” or that the artisan would have been motivated to use “split leather” instead of the suggested leather.

⁴ Outstanding Office Action at 4.

⁵ Johnson, col. 1, lines 35-45.

Additionally, Johnson specifies that teeth are fixed on a strip (and not on a wall of the article).⁶ Johnson states:

My invention is the fastener elements 4, the method of making them and the manner of attaching them to a stringer. Therefore, I have illustrated in a general manner a particular type of fastener element and means for making and assembling the fastener elements to a stringer.⁷

Accordingly, Johnson relates only to a stringer, and a person or ordinary skill in the art considering the Johnson reference would have used an intermediary strip to attach the zip fastener. In other words, Johnson teaches away from directly using the garment as the object to which the zip fastener is attached, i.e., that the zip fastener “forms a wall of an article on which the zip fastener is disposed.”

Andler teaches away from forming the strips of a treated material such as split leather. Indeed Andler aims to avoid the use of treated material at all. Regarding attachment of the stringer, Andler states “no sewing is necessary, nor any further treatment needed.”⁸ In other discussion of attachment of the stringer to the article, Andler states:

The two plies form open wings which are adapted to receive therebetween, for adhesive attachment to the opposite faces of, an edge portion of the article for which it is to form a separable fastener. When attached, stripping or tearing away becomes impossible, the union is strong and practically permanent, and the closure which may be to an unselvaged or unfinished garment edge is neat and sightly.⁹

Thus, Andler deals with the problem of uneven thickness of material by attaching strips to the wall of the article of clothing with an adhesive. Accordingly, Applicant respectfully submits that both Andler and Johnson teach away from making the zip fastener part of the wall of the article of clothing.

Pindek fails to remedy the deficiencies of Johnson and Andler discussed above.

⁶ Id.

⁷ Johnson col. 1, line 47 – col. 2, line 3.

⁸ Andler, col. 1, line 42.

⁹ Andler, col. 1, lines 30-33.

Nowhere in Pindek is leather disclosed, much less split leather as recited in independent Claim 1. Rather, throughout the disclosure of Pindek, the material comprising elements (10) and (11) is repeatedly described only as "fabric."

Applicant respectfully submits that Brozek fails to remedy the deficiencies in the references discussed above. Nowhere in Brozek is any material described as split leather. Rather as shown in Fig. 1 and Fig. 2, the tape (10) appears to be a woven fabric. Nowhere in Brozek is leather disclosed, much less split leather folded and filled longitudinally with a rod as recited in amended Claim 1.

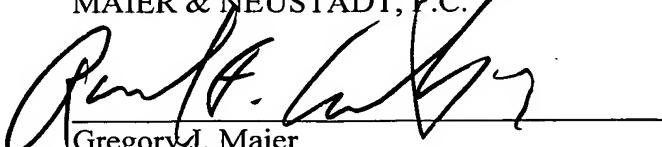
Accordingly, Applicant respectfully submits that independent Claim 1 patentably distinguishes over the cited references for at least the reasons discussed above.

As Claims 3 and 4 depend from independent Claim 1, Applicant respectfully submits that Claims 3 and 4 patentably distinguish over the cited references for at least the same reasons as independent Claim 1.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599

Raymon F. Cardillo, Jr.
Registration No. 40,440

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)